

A.G. Contract No.: KR04-1503TRN
ADOT ECS File No. JPA 04-120
Project: Safford Bridge
Project No.: BR-GGH-0(007)A
TRACS No.: SB41603D
BUDGET SOURCE ITEM No.: N/A

INTERGOVERNMENTAL AGREEMENT

BETWEEN
THE STATE OF ARIZONA
AND
THE COUNTY OF GRAHAM

THIS AGREEMENT is entered into 13th April, 2005, pursuant to Arizona Revised Statutes Sections 11-951 through 11-954, as amended, between the STATE OF ARIZONA, acting by and through its DEPARTMENT OF TRANSPORTATION (the "ADOT") and the County of Graham acting by and through its COUNTY BOARD OF SUPERVISORS ("the County"), collectively the "Parties"

I. RECITALS

1. The State is empowered by Arizona Revised Statutes Sections 28-401 and 28-334 to enter into this Agreement and has delegated to the undersigned the authority to execute this Agreement on behalf of the State.

2. The County is empowered by Arizona Revised Statutes Section 11-952 to enter into this Agreement and has by resolution, a copy of which is attached hereto and made a part hereof, resolved to enter into this Agreement and has authorized the undersigned to execute this Agreement on behalf of the County.

3. Congress has authorized appropriations for, but not limited to, the construction of streets and primary, feeder and farm-to-market roads; the replacement of bridges; the elimination of roadside obstacles; and the application of pavement markings

4. Such project lies within the boundary of the County and has been selected by the County; the plans, estimates and specifications will be prepared and, as required, submitted to the State and Federal Highway Administration (FHWA) for its approval.

5. The County, in order to obtain Federal funds for the design of the project, is willing to provide County funds to match Federal funds in the ratio required or as finally fixed and determined by the County, and FHWA, including administration costs

6. The interest of the State for this Project is in the acquisition of Federal funds for the use and benefit of the County. Funds expended for the Project, are authorized by reason of federal law and regulations.

NO. 27454
Filed with the Secretary of State
Date Filed: 04/13/05

Janice K. Brewer
Secretary of State

By: Jimmy D. Gruenewald

7. The work encompassed in this Agreement consists of the State reviewing the design of the replacement or rehabilitation of the Safford Bridge (# 9333) crossing over the Gila River, hereinafter referred to as the "Project", at an estimated cost of \$1,000,000.00. The estimated costs are as follows:

<u>TRACS No.: SB 41603D</u>	
Total Estimated Design Cost	\$1,000,000.00
Federal Aid Funds @ 100%	\$1,000,000.00
County Match Funds @ 0%	\$ Ø
Estimated ADOT PE Review Cost	\$ 10,000.00
<i>Estimated Total County Funds</i>	<i>\$ 10,000.00</i>

THEREFORE, in consideration of the mutual Agreements expressed herein, it is agreed as follows:

II. SCOPE OF WORK

1. The State Will:

a. Upon execution of this Agreement, be the designated authorized agent with the consent of the County and FHWA, to perform certain work as mentioned in II.1.f. below.

b. Upon execution of this Agreement, invoice the County for the estimated amount of \$10,000.00 for the PE review costs.

c. Upon execution of this Agreement and within thirty (30) days upon receipt and approval of an invoice from the County, remit to the County, no more than monthly, for the direct actual Project design costs expended by the County currently estimated at a total cost of \$1,000,000.00.

d. Enter into a Project Agreement with FHWA on behalf of the County covering the work encompassed in this Agreement and will request the maximum federal funds available. Should costs exceed the maximum federal funds available, it is understood and agreed that the County will be responsible for any overage.

e. As required by the FHWA, provide design review of the project plans, studies and related documents, and when appropriate provide comments which will be incorporated into the design documents.

f. On behalf of the County, perform certain work and prepare certain documents required by the FHWA to qualify certain projects for and to receive federal funds. Such work may consist of, but is not specifically limited to, review the design of the replacement or rehabilitation of the Safford Bridge (#9333) crossing over the Gila River, the review and approval of the environmental documents; the preparation of the analysis requirements for documentation of environmental categorical exclusions; review of reports, maps, and specifications; geologic materials testing and analysis; right-of-way related activities and such other related tasks essential to the achievement of the objectives of this Agreement when specifically authorized by, for and on behalf of the County, and at no cost to the State.

g. Not be obligated to incur any expenditure in the Project should unforeseen conditions or circumstances increase the cost of said work such that a change in the extent of the scope of work called for in this Agreement becomes necessary.

2. The County Will:

a. Upon execution of this Agreement, agree that the State will be the designated authorized agent for the County, to review the design of the replacement or rehabilitation of the Safford Bridge (#9333) crossing over the Gila River, all at County's expense, to perform certain work and prepare certain documents required by the FHWA to qualify certain highway, bridge and railroad grade crossing projects for and to receive federal funds. Such work may consist of, but is not specifically limited to, the designing of the replacement or rehabilitation of the Safford Bridge (#9333) crossing over the Gila River, the review and approval of the environmental documents, the preparation of the analysis requirements for documentation of environmental categorical exclusions; review of reports, maps, and specifications; geologic materials testing and analysis; right-of-way related activities, when specifically authorized by, for and on behalf of the County, and at no cost to the State, and such other related tasks essential to the achievements of the objectives of this Agreement whether covered by Federal funding or not.

b. Upon execution of this Agreement and upon receipt of an invoice from the State, remit to the State the estimated amount of \$10,000.00 for the PE review costs.

c. Upon execution of this Agreement, invoice the State for reimbursement, no more than monthly, for the direct actual Project design costs expended by the County currently estimated at a total cost of \$1,000,000.00.

d. Call for bids and award one or more design contracts for the Project. Administer same and make all payments to the contractor(s). Be responsible for contractor claims for extra compensation for delays, or whatever reason, attributable to the County.

e. Provide any required preliminary engineering and planning studies, the environmental analysis and design of the Project and other such documents for the replacement or rehabilitation of the Safford Bridge (#9333) crossing over the Gila River.

f. Agree to set aside funds in an amount equal to the difference between the total cost of the work provided for in this Agreement and the amount of federal aid received.

g. Be obligated to incur any expenditure should unforeseen conditions or circumstances increase the cost of said work required by a change in the extent of the scope of work requested by the County. Such changes require the prior approval of the State.

III. MISCELLANEOUS PROVISIONS

1. The State assumes no financial obligation or liability under this Agreement nor for any resulting construction project. The County assumes full responsibility for the design, plans and specifications, reports, the engineering in connection therewith and the construction of the improvements contemplated, cost over-runs and construction claims. The County shall require its contractors to name the State and ADOT as an additional insured in the contractor's insurance policies. The County shall also require its contractors to name the State and ADOT as an additional indemnitee in the County's contracts with its contractors. It is understood and agreed that the State's participation is confined solely to securing federal aid; that any damages arising from carrying out, in any respect, the terms of this Agreement or any modification thereof, shall be solely the liability of the County and that the County hereby agrees to save and hold harmless and indemnify from loss the State, any of its departments, agencies, officers or employees from any and all costs and/or damage incurred by any of the above and from any other

damage to any person or property whatsoever which is caused by any activity, condition, misrepresentation, directives, instructions or event arising out of the performance or nonperformance of any provisions of this Agreement by the State, any of its departments, agencies, officers and employees of the County, and any of its agents, officers and employees, or any of its independent contractors. Costs incurred by the State, any of its departments, agencies, officers or employees shall include, in the event of any action, court costs, and expenses of litigation or attorneys' fees.

2. The cost of the design covered by this Agreement is to be borne by FHWA and the County, each in the proportion prescribed or as fixed and determined by the FHWA, as stipulated in this Agreement. Therefore, the County agrees to furnish and provide the difference between the total cost of the work provided for in this Agreement and the amount of federal aid received.

3. This Agreement shall become effective upon filing with the Secretary of State.

4. It is understood and agreed that if the County cancels this Agreement, the County is responsible for all Project costs up to the time of cancellation.

5. This Agreement may be cancelled in accordance with Arizona Revised Statutes Section 38-511.

6. The provisions of Arizona Revised Statutes Section 35-214 are applicable to this contract.

7. This Agreement is subject to all applicable provisions of the Americans with Disabilities Act (Public Law 101-336, 42 U.S.C. 12101-12213) and all applicable federal regulations under the Act, including 28 CFR Parts 35 and 36. The parties to this Agreement shall comply with Executive Order Number 99-4 issued by the Governor of the State of Arizona, and incorporated herein by reference regarding "Non-Discrimination".

8. Non-Availability of Funds: Every payment obligation of the State under this contract is conditioned upon the availability of funds appropriated or allocated for the payment of such obligation. If funds are not allocated and available for the continuance of this contract, this contract may be terminated by the State at the end of the period for which the funds are available. No liability shall accrue to the State in the event this provision is exercised, and the State shall not be obligated or liable for any future payments or for any damages as a result of termination under this paragraph.

9. In the event of any controversy which may arise out of this Agreement, the parties hereto agree to abide by required arbitration as is set forth for public works contracts in Arizona Revised Statutes Section 12-1518(B) and (C).

10. All notices or demands upon any party to this Agreement shall be in writing and shall be delivered in person or sent by mail addressed as follows:

Arizona Department of Transportation
Joint Project Administration
205 S. 17th Avenue, Mail Drop 616E
Phoenix, Arizona 85007-3212
Fax: 602-712-7424

County of Graham
Michael Bryce, Graham County Engineer
921 Thatcher Boulevard
Safford, Arizona 85546
Fax: 928-428-5951

[Signatures on next page]

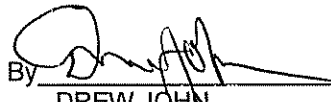
11. Pursuant to Arizona Revised Statutes Section 11-952(D), attached hereto and incorporated herein, is the written determination of each party's legal counsel that the parties are authorized under the laws of this State to enter into this Agreement and that the Agreement is in proper form.


IN WITNESS WHEREOF, the parties have executed this Agreement the day and year first above written.

COUNTY OF GRAHAM


STATE OF ARIZONA

Department Of Transportation

By _____
DREW JOHN
Chairman of the Board

By: _____
SUSAN TELLEZ
Contract Administrator

ATTEST:

By _____
TERRY COOPER
County Manager/Clerk of Board

**RESOLUTION
#2005-09**

A RESOLUTION OF THE BOARD OF SUPERVISORS OF THE COUNTY OF GRAHAM, APPROVING THE INTERGOVERNMENTAL AGREEMENT, ADOT ECS File No. JPA 04-120, BETWEEN THE STATE OF ARIZONA AND THE COUNTY OF GRAHAM.

WHEREAS, the Board of Supervisors desire to construct a new bridge and approaches over the Gila River on 8th Avenue near Safford in Graham County and,

WHEREAS, the design and construction of the 8th Avenue Bridge and its approaches over the Gila River will contribute to improved access to local businesses, and aid in the retention and development of local businesses,

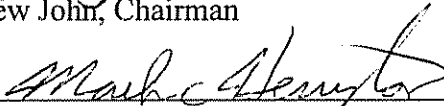
NOW THEREFORE BE IT RESOLVED, that the Board of Supervisors through adoption of this resolution approved Intergovernmental Agreement ADOT ECS File No. JPA 04-120 between Graham County and the Arizona Department of Transportation and authorized the chairman to sign necessary agreements,

PASSED AND ADOPTED this 21st day of March, 2005.

GRAHAM COUNTY BOARD OF SUPERVISORS



Drew John, Chairman



Mark C. Herrington, Member



James A. Palmer, Member

ATTEST:



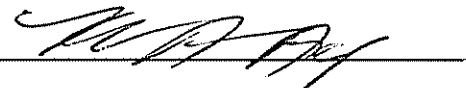
Terry Cooper, Board Clerk

JPA 04-120

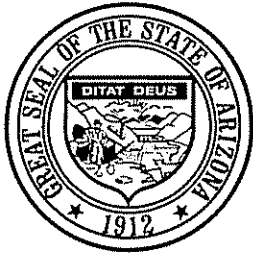
APPROVAL OF THE GRAHAM COUNTY ATTORNEY

I have reviewed the above referenced intergovernmental agreement between the DEPARTMENT OF TRANSPORTATION, INTERMODAL TRANSPORTATION DIVISION, and the GRAHAM COUNTY, an agreement among public agencies which, has been reviewed pursuant to A.R.S. § 11-951 through § 11-954 and declare this agreement to be in proper form and within the powers and authority granted to the COUNTY under the laws of the State of Arizona. No opinion is expressed as to the authority of the State to enter into this agreement.

DATED this 21st day of March, 2005

A handwritten signature in black ink, appearing to read "M. D. [unclear]", is written over a horizontal line.

County Attorney



**ATTORNEY GENERAL
CIVIL DIVISION
TRANSPORTATION SECTION**

MEMORANDUM

Jeffrey T. Murray
Assistant Attorney General

Direct: (602) 542-8859
Fax: (602) 542-3646


**INTERGOVERNMENTAL AGREEMENT
DETERMINATION**

A.G. Contract No. KR04-1503TRN (**JPA 04-120**), an Agreement between public agencies, has been reviewed pursuant to A.R.S. § 11-952, as amended, by the Undersigned Assistant Attorney General who has determined that it is in the proper form and is within the powers and authority granted to the State of Arizona.

No opinion is expressed as to the authority of the remaining Parties, other than the State or its agencies, to enter into said Agreement.

DATED March 29th, 2005.

TERRY GODDARD
Attorney General



JEFFREY T. MURRAY
Assistant Attorney General
Transportation Section

JTM:dgr
Attachment
897897